

State of Utah
Title and Escrow Commission Meeting
Meeting Information

Date: February 13, 2012 **Time:** 9:00 AM **Place:** East Bldg, Spruce Room

MEMBERS

COMMISSION MEMBERS

Chair, Dirk Keyes	Jerry M. Houghton, <i>Tooele Cnty</i>
Co Chair, Cortlund G. Ashton, Salt Lake Cnty	Larry Turner Blake, <i>Washington, Cnty</i>
Kirk Donald Smith, Weber Cnty	

DEPARTMENT STAFF

Perri Babalis, <i>AG Counsel</i>	Brett Barratt, <i>Deputy Comm.</i>	Mark Kleinfeld, <i>ALJ</i>
Suzette Green-Wright, <i>MC Dir.</i>	Tammy Greening, <i>Examiner</i>	

ATTENDEES

Duane Evans, CO	Lucas Newman	James Seaman
Jeff Wiener	Blake Heiner	Sue Gildes
Carol Yamamoto	Matt Sager	Diane Evans
Pete Stevens	Clayton Hansen	(Colorado)
David Moore	Susan Houghton	
Lincoln Scoffield	Al Newman	

MINUTES

General Session: (Open to the Public)

- **Welcome** / Dirk Keyes, Chair 9:12
- **Adopt Minutes of Previous Meeting**
 - **Motion** by Jerry to accept the minutes, seconded by Larry and the vote was unanimous.

Executive Session (Not needed)

- **Reports**
 - **Concur with Licensee Report** / Tammy
 - Motion** to concur by Cort and seconded by Kirk , vote was unanimous.
 - **Concur with Complaint & Enforcement Reports** / Suzette
 - Cort asked a question about the licensure of Matthew Nelson David. **Motion** to concur by Jerry and seconded by Larry, vote was unanimous.
 - **Request for Attorney Exemption:** None
- **Administrative Proceedings Action** / ALJ
 - **LSI Title Insurance Agency of Utah, Inc:**
 - Brett explained that Commissioner Gooch received the Commission's letter on January 23rd, 2012 regarding their non-concurrence to the proposed fine of \$6000. The Commission voted to assign a \$250,000 forfeiture. Commissioner Gooch sent a letter to LSI on January 29th requesting their acceptance or rejection of the new forfeiture.
 - **Formal Adjudicative Proceeding & Pre-Hearing Conf: Brian Chapin Butters**
 - A pre-hearing conference is scheduled for Mar 14th at 10am. Judge Kleinfeld reviewed pre-hearing conference process. Jerry suggested that they conduct the

hearing so the new members could learn the process. Kirk made the **motion** to have the Commission conduct the hearing on Mr. Butters, Jerry seconded the motion and the vote was unanimous.

- **Informal Adjudicative Proceeding & Order:** Matthew Nelson David

Judge Kleinfeld explained to process the Department uses when someone lies on their licensing application when there are no fiduciary related issues. A forfeiture of \$500 and 24 months probation was recommended. Kirk made a **motion** to concur with the recommendation and Jerry seconded the motion. The vote was unanimous.

- **Stipulation & Order:**

- **Cornerstone Title Ins Agency, LLC, & Kari M. Holding**

- Judge Kleinfeld explained the case. Larry made a **motion** to concur, Cort seconded it and the vote was unanimous

- **Wasatch Title Insurance Agency, LLC**

- Judge Kleinfeld presented the case and Suzette clarified the question as to why no individual title licensee was a party to this action. **Motion** was made by Cort to concur, seconded by Larry and the vote was unanimous.

- **Old Business**

- **Discuss Definition of Real Estate Escrow Settlements & Real Estate Closings /**
Cort

Cort compared the views of Mr. Stevens, Mr. Sager and the Department with the current code language. Cort requested more input and Dirk asked that this **remain on the agenda.**

- **Discussion of “Agency Supervision by Qualifying Owner or Manager Rule” /**
Dirk

There was a great discussion on the proposed draft of this rule. It was suggested that the term ‘designated licensee’ be changed to ‘qualifying licensee,’ the correct severability clause be included, the suggestion to remove or not remove line (a) under R592-XX-4 was discussed, reference in R592-XX-3 to 31A-23a-204(1)(a) was fixed, and added 30 day reporting language. David Moore also suggested that there be a section that allowed the Commission to grant exceptions. People spoke for the rule and against the rule. Pete asked if his concerns were going to be discussed and he was told that when it goes to formal rule hearing that his concerns would be presented. **This was asked to be on the agenda for next month.**

- **Rule Defining “Minimum Mandatory Search for a Real Estate Transaction” /**
Cort

Larry presented a definition for “Minimum Mandatory Search.” This change requires a rule and Department of Administrative Rules has asked for the rule. Al Newman suggested that they needed to add title plant records as an approved searchable database. Blake Heiner had concern that they might expand public land records. Discussion ensued whether the underwriter needed to set the compliance standard. Matt Sager stated that if the underwriter was made responsible then it would be a ‘race to the bottom’. The term ‘direct supervision’ was of concern to some. **Keep on the agenda.**

- **New Business**

- **Discuss Unauthorized Insurers and a Bulletin Instructing Producers About the Signing Documents Certifying or Guaranteeing Title and Escrow / Larry**
 Larry provided copies of certification documents that are being used by various financial institutions. Freddie Mac is requiring these documents. Diane Evans stated that in Colorado they are adding language that says: “to the best of our knowledge.” David Moore stated that he would also add “except as precluded by law.”
- **Discuss Possible Clarifications to Rule R592-2, Title Ins. Administrative Hearing & Penalty Imposition / Perri**
 Perri led the discussion on this rule and the need to add information and procedures when a suggested Stip & Order is not accepted by the Commission and is returned to the department. What notifications need to go to the respondent and what, if any, timelines should be followed?
- **Discuss Rule R592-6(4)(14), Unfair Methods of Competition, Acts & Practices: Issues brought to the attention of the Department / Suzette/Tammy/Sue Gildes**
 In Nov 2011 the rule was changed to add payment of subordination fees as an unfair inducement. The trend the Department is seeing is that large national lenders are asking title agencies to prefund Subordination Agreement fees. Ms. Gildes spoke to her situation. The Chair asked that the Department look at the rule and see if they can except out HARP loans.
- **Other Business:** None
- **Adjourned:** 11:55am